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SCOTT ELLIOTT

February 21, 2007

VIA HAND DELIVERY

Mr. Charles L. A. Terreni
Chief Clerk and Administrator
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

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FEB 21 2007

PSC SC
DOCKETING DEPT.

RE: Comments of United Telephone Company of the Carolinas and Embarq Communications, Inc.
Docket No. 2006-37-C

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SC PUBLIC SERVICE
COMMISSION

Dear Mr. Terreni:

Pursuant to the Commission's notice of February 7, 2007, United Telephone Company of the Carolinas d/b/a Embarq and Embarq Communications, Inc. (collectively, "Embarq") hereby submit additional comments regarding proposed guidelines for designating and annually certifying Eligible Telecommunications Carriers (ETCs) in South Carolina. Attached to these comments are Embarq's suggested revisions to the proposed guidelines.

As stated in its August 1, 2006 Comments filed in this docket, Embarq does not believe it is practical or advisable to adopt a single set of ETC criteria to be applied to all providers. Embarq believes that the Commission should make at least a distinction between ILECs already designated ETCs and providers seeking ETC status. The distinction should recognize that ILECs are already meeting their universal service obligations and, thus, warrant universal service fund support, while providers seeking ETC status must demonstrate their need and worthiness to receive support.

Embarq believes that one of the main goals of any guidelines adopted by the Commission is to ensure that any newly designated ETCs do not engage in creamskimming. Specifically, newly designated ETCs should not be allowed to receive universal service fund support based on the average costs of serving a particular market, while actually providing service only in the market's low-cost areas. By serving only low-cost areas, a newly designated ETC would reap a financial windfall by receiving USF support in excess of the economic cost it actually incurs. A rigorous public interest analysis is required to ensure that creamskimming does not occur. Embarq proposes the standards for such an analysis in its suggested revisions to the proposed guidelines.

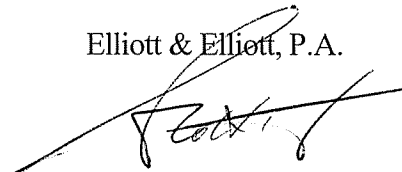
Mr. Terreni
February 21, 2007
Page 2

As to the specific requirements and related reports in the proposed Staff guidelines, Embarq reiterates that most of these requirements are already being met by South Carolina ILECs in complying with the Commission's existing rules. Embarq suggests that ILECs annually certifying compliance with applicable Commission rules is sufficient to demonstrate compliance with ETC requirements. However, Embarq again urges the Commission not to adopt the guideline which would require a service improvement plan for ILECs already designated as ETCs. As Embarq explained in its comments, ILECs are currently fulfilling their carrier of last resort obligations in the state and have ample incentives to continue investing in their networks. For applicants and newly designated ETCs, service improvement plans are warranted. Applicants and newly designated ETCs should be required to demonstrate how they will comply with the Staff's guidelines, including how they intend to expand their networks in their designated service territory to areas they currently do not serve or under serve.. Reports on their progress are also warranted.

Embarq asks the Commission to adopt Embarq's suggested revisions to the Staff's proposed guidelines for designating and annually certifying ETCs in South Carolina. In the alternative, Embarq recommends that the Commission adopt the Staff guidelines only for newly designated ETCs. If necessary, the Commission could conduct a further rulemaking to determine to what extent these guidelines should be applicable to ILECs already designated ETCs, as suggested by the Office of Regulatory Staff in the October 12, 2006 workshop.

Sincerely yours,

Elliott & Elliott, P.A.

A handwritten signature in black ink, appearing to read "Scott Elliott", written over a horizontal line.

Scott Elliott

SE/jcl

Enclosures

cc: All Parties of Record w/enc.

**GUIDELINES FOR DESIGNATING ELIGIBLE TELECOMMUNICATIONS
CARRIERS AND REQUIREMENTS FOR EXISTING ELIGIBLE
TELECOMMUNICATIONS CARRIERS**

A. Purpose.

These guidelines define the requirements for designation as an Eligible Telecommunications Carrier ("ETC") for the purpose of receiving federal universal service support, not state universal service support, pursuant to 47 U.S.C. § 214(e) of the Federal Telecommunications Act of 1996; include annual reporting requirements for existing ETCs; and include ETC requirements associated with Lifeline and Link Up low-income assistance programs.

B. Definitions.

1. Cell site. A geographic location where antennae and electronic communications equipment are placed to create a cell in a cellular network for the use of mobile phones. A cell site is composed of a tower or other elevated structure for mounting antennae, and one or more sets of transmitter/receivers, transceivers, digital signal processors, control electronics, and backup electrical power sources and sheltering.

42. Commission. The word Commission in these guidelines means the Public Service Commission of South Carolina.

23. Eligible Telecommunications Carrier (ETC). An ETC is a carrier as defined in 47 U.S.C. §214(e).

34. Lifeline Service. Lifeline Service is a service as defined in 47 C.F.R. §54.401.

45. Link Up Service. Link Up Service is a service as defined in 47 C.F.R. §54.411.

56. ORS. The abbreviation ORS in this subarticle means the Office of Regulatory Staff.

7. Wire center. A geographic location of one or more local switching systems; a location where customer loops converse. References to the evaluation of service within a wire center, for purposes of these guidelines, shall mean an evaluation of the quality of the services provided in that part of the licensee's service area served by a cell site in the event the applicant is a wireless service provider.

C. Requirements for initial designation as an Eligible Telecommunications Carrier.

- (a) The Commission may upon its own motion or upon request, designate a common carrier that meets the requirements in this section as an ETC for a designated

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service area. Upon request and consistent with the public interest, convenience and necessity, the Commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area designated by the Commission. Before designating an additional ETC for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest. On or after the effective date of these rules, in order to be designated an eligible telecommunications carrier under 47 U.S.C. § 214(e)(2), of the Federal Telecommunications Act of 1996, any common carrier in its application filed with the Commission and a copy provided to with the ORS must: provide the following information:

(1)(A) commit to provide service throughout its proposed designated service area (which must include a commitment to provide services in high-cost areas) to all customers making a reasonable request for service. Each applicant shall certify that it will (1) provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and (2) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by (a) modifying or replacing the requesting customer's equipment; (b) deploying a roof-mounted antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting network or customer facilities; (e) reselling services from another carrier's facilities to provide service; or (f) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment; and

(B) submit a two-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis, or on a cell site by cell site basis if the applicant is a wireless carrier, throughout its proposed designated service area. Each applicant shall demonstrate how it plans to improve and expand its network to ensure that un-served and under-served rural or high-cost areas will receive sufficient signal quality, coverage or capacity will improvement due to the receipt of high-cost support; -the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

(2) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. The

~~Commission shall determine on a case by case basis whether a carrier has demonstrated its ability to remain functional in emergency situations.~~

(3) demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ~~will~~ may satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.

(5) certify by affidavit signed by an officer of the company that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

(6) certify by affidavit signed by an officer of the company that it does or will offer the services that are supported by the federal universal service support mechanisms by using its own facilities or a combination of its own facilities and resale of another carrier's services. And, if resale is used the ETC must certify that it plans to replace resold facilities with its own facilities within a reasonable period of time.

(7) certify by affidavit signed by an officer of the company, that it does or will advertise in a media of general distribution the availability of such services, including lifeline services and the applicable charges.

(b) *Public Interest Standard.* Prior to designating an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e)(2), the Commission must determine that such designation is in the public interest. In doing so, the Commission shall consider, ~~inter alia~~, the benefits of increased consumer choice, ~~and~~ the unique advantages and disadvantages of the applicant's service offering. In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the Commission shall also conduct a creamskimming analysis that compares the following: 1) ~~that includes, but is not limited to, comparing~~ the population density of each wire center or sub-wire center in which the eligible telecommunications carrier applicant seeks designation against that of the wire centers or sub-wire centers in the study area in which the eligible telecommunications carrier applicant does not seek designation; 2) the existing facilities of the applicant throughout the wire center or sub-wire center and the degree to which resale will be relied upon in these areas for service to the wire center or sub-wire center by the applicant; and 3) the densities of the areas in which the applicant will rely on resale and whether they vary significantly from the densities of the areas served with the applicant's own facilities. In its creamskimming analysis, the Commission shall consider other factors, such as disaggregation of support

by the incumbent local exchange carrier. ~~The Commission will deny designation if it concludes that the potential for creamskimming is contrary to the public interest.~~

D. Annual reporting requirements for designated eligible telecommunications carriers.

(a) ~~All common carriers designated under 47 U.S.C. § 214(e)(2) as an eligible telecommunications carriers after June 30, 2006 shall provide;~~ with the exception of the reporting requirements set forth in subsection (b), the following:

- (1) a progress report on its two-year service quality improvement plan, including maps detailing its progress towards meeting its plan targets, network build-out in high-cost areas, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;
- (2) detailed information on any outage, as defined in 47 C.F.R. § 4.5, of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect (a) at least ten percent of the end users served in a designated service area; or (b) a 911 special facility, as defined in 47 C.F.R. § 4.5(e). Specifically, the eligible telecommunications carrier's annual report must include information detailing: (a) the date and time of onset of the outage; (b) a brief description of the outage and its resolution; (c) the particular services affected; (d) the geographic areas affected by the outage; (e) steps taken to prevent a similar situation in the future; and (f) the number of customers affected;
- (3) the number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers;
- (4) the number of complaints or trouble reports per 1000 handsets or access lines;
- (5) certification that it is complying with applicable service quality standards and consumer protection rules, ~~as designated by the Commission;~~
- (6) ~~a detailed report and~~ certification that the carrier is able to function in emergency situations;

- (7) ~~for non-incumbent local exchange carriers certification that the carrier is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas and is serving customers in its high-cost areas;~~
 - (8) ~~certification that the company is not engaging in creamskimming and a population density analysis or other evidence to support this claim-carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area;~~
 - (9) ~~certification that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area; and the number of Lifeline customers and the number of customers that received Link Up assistance as of Dec 31st of the prior year; and~~
 - (10) ~~the number of Lifeline customers and the number of customers that received Link Up assistance as of Dec 31st of the prior year.copies of responses to the Lifeline Verification Survey or Certification filed with the Universal Service Administrative Company on August 31 of each year.~~
 - (11) ~~copies of responses to the Lifeline Verification Survey or Certification filed with Universal Service Administrative Company on August 31 of each year.~~
- (b) All carriers classified as ETCs prior to June 30, 2006 shall report to the Commission and the ORS the expenditures made by the ETC to build-out network if needed, to maintain the network; and expenditures made to repair and improve the network on an aggregate basis for its entire service area including an explanation of how much universal service support was received and how it was used.
- (c) *Filing Deadlines.* In order for a common carrier designated under 47 U.S.C. § 214(e)(2) to continue to receive support for the following calendar year, or retain its eligible telecommunications carrier designation, it must submit ~~file with the Commission and provide a copy to the ORS the~~ annual reporting information in ~~information in~~ paragraphs (a) or (b) no later than August 15, 2007, and thereafter annually by August 15 of each year. The information provided should cover the previous twelve (12) month period ending June 30th. The ORS shall review each ETC annual report and notify the Commission in writing as to the ORS's opinion as to whether the carrier is in compliance with federal and state regulations and rules. The Commission, after holding a hearing, if it deems a hearing is necessary, shall determine based upon the information provided to it whether the carrier is in compliance with federal and state regulations and rules and shall

notify the Federal Communications Commission and the Universal Service Administrative Company of each company's compliance by October 1 of the reporting year thereby ensuring that each ETC designated by the Commission is authorized to receive federal support for the upcoming fiscal year.

- (d) Upon request by any ETC designated after June 30, 2006, the Commission may terminate these reporting requirements if the petitioning ETC has met all of the requirements set forth in these rules within the previous 4 years. If such waiver is granted, the petitioning ETC will be required to meet the reporting requirements set forth under Paragraph D Subsection (b).

E. Newly designated eligible telecommunications carriers.

- (a) Once a carrier is designated as eligible to receive support the Commission shall file the certification with the Federal Communications Commission and the Universal Service Administrative Company within 60 days of that effective date of its designation as an eligible telecommunications carrier.
- (b) Thereafter, the ETC must submit the data required in Paragraph D Subsection (b) by August 15 and the Commission shall file the certification with the FCC Federal Communications Commission and the Universal Service Administrative Company by October 1.

F. ETC Requirements for Lifeline and Link Up Services

- (a) ETCs shall offer Lifeline service in the designated service area to all qualifying low-income consumers in accordance with the federal lifeline service guidelines as follows:
 - (1) ETCs shall advertise the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.
 - (2) ETCs shall commit to offer toll limitation to all qualifying low-income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation service, that service becomes part of that consumer's Lifeline service.
 - (3) ETCs may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll limitation service from the carrier where available.
 - (4) ETCs shall verify twice a year annually that its Lifeline customers meet the program qualification.

- (5) ETCs shall notify Lifeline subscribers a minimum of 60 days prior to termination of their service if the carrier has a reasonable basis to believe that the subscriber no longer meets the Lifeline qualifying criteria.
 - (6) ETCs shall not charge Lifeline customers a monthly number- portability charge.
- (b) ETCs shall offer Linkup service in the designated service area to all qualifying low-income consumers, in accordance with the following guideline:
- (1) ETCs shall advertise availability of Link Up service in a manner reasonably designed to reach those likely to qualify for the service, and shall provide a reduction of the customary charge for connecting telecommunications service for a single line at the consumer's principle place of residence. The reduction shall be in conformance with federal regulations governing the cost of Link Up service.

CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: Petition of the Office of Regulatory Staff for a Rule-Making Proceeding to Examine the Requirements and Standards to be Used by the Commission When Evaluating Applications for Eligible Telecommunications Carrier (ETC) Status and When Making Annual Certification of ETC Compliance to the Federal Communications Commission

DOCKET NO.: 2006-37-C

PARTIES SERVED:

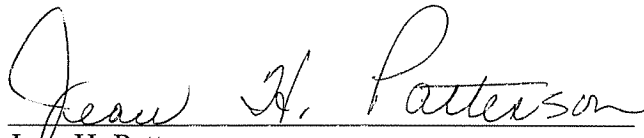
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PLEADING: Comments of United Telephone Company of the Carolinas and Embarq Communications, Inc.

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Jean H. Patterson